



# **My child... our child!**

Prevention Guide  
International Child Abduction

Belgium





**Published by:** Child Focus, Avenue Houba de Strooper 292, 1020 Bruxelles

**Author:** Hilde Demarré

**Responsible publisher:** Kristine Kloeck – General Director

**Lay out:** in extremis, Daniel Cornelis

**Printing:** Impresor

**Translation:** BLS and IGTV

**Illustrations:** Philip Paquet

**Financed by:** European Commission - Specific Programme 'Civil Justice' JLS -CJ-2007-1-07.

This publication can freely be downloaded from our website [www.childfocus.be](http://www.childfocus.be)

This publication is also available:

in French *Mon enfant... notre enfant ! Guide de prevention enlèvement international d'enfants. Belgique*

and in Dutch *Mijn kind... ons kind! Preventiegids internationale kinderontvoering. België.*

ISBN 9789077118191

D/2010/9519/03

NUR740

June 2010

# **My child... our child!**

Prevention Guide  
International Child Abduction

**Belgium**

*It is easier to persuade somebody to stay than to stop him leaving.*

*(Baudouin Vanderhulst, honorary ambassador)*

<b>Foreword</b> . . . . .	<b>9</b>
<b>1. Introduction</b> . . . . .	<b>13</b>
<b>2. Regulations</b> . . . . .	<b>17</b>
2.1 Definitions . . . . .	18
2.1.1 Definition of international child abduction under civil law (Art. 1, 1980 The Hague Child Abduction Convention) . . . . .	18
2.1.2 Definition of child abduction under criminal law (Art 431-432 Penal Code) . . . . .	18
2.1.3 Prevention of international child abduction . . . . .	18
2.2 National regulations . . . . .	19
2.2.1 Provisions under civil law relating to parental responsibility . . . . .	19
2.2.1.1 Civil procedures when parents separate . . . . .	19
2.2.1.2 Civil procedures when parents don't separate . . . . .	19
2.2.2 Criminal provisions . . . . .	20
2.3 International regulations . . . . .	21
2.3.1 The Hague Convention of 25 October 1980 on the civil aspects of international child abduction . . . . .	21
2.3.2 (EC) Regulation No. 2201/2003, "Brussels II bis" . . . . .	22
2.3.3 Bilateral agreements . . . . .	23
2.3.3.1 Bilateral agreement with Morocco . . . . .	23
2.3.3.2 Bilateral agreement with Tunisia . . . . .	24
<b>3. The phenomenon of international child abduction</b> . . . . .	<b>25</b>
3.1 The Belgian situation in figures . . . . .	26
3.1.1 General data . . . . .	26
3.1.2 The abducting parent . . . . .	27
3.1.3 The abducted children . . . . .	28
3.1.4 The abduction . . . . .	29
3.1.5 The return . . . . .	29

3.2 Psychological impact of international child abductions . . . . .	32
3.2.1 Introduction . . . . .	32
3.2.2 Psychological impact for children . . . . .	33
3.2.3 Psychological impact for parents . . . . .	34
<b>4. Prevention . . . . .</b>	<b>37</b>
4.1 Fear versus genuine risk . . . . .	38
4.1.1 Introduction . . . . .	38
4.1.2 Fear of an international child abduction . . . . .	38
4.1.3 Assessing the genuine risk. . . . .	39
4.1.3.1 Introduction . . . . .	39
4.1.3.2 Crisis in the relationship/end of the relationship . . . . .	41
4.1.3.3 Homesickness for the country of origin . . . . .	42
4.1.3.4 Relocation . . . . .	43
4.1.3.4.1 Risk of alienation of the left behind parent. . . . .	43
4.1.3.4.2 Risk of abduction by the parent with the primary residence . . . . .	44
4.1.3.5 Disrupted family relations. . . . .	45
4.1.3.6 Financial or material difficulties . . . . .	46
4.2 Proactive preventive measures . . . . .	46
4.2.1 Introduction . . . . .	46
4.2.2 Amicable settlement and mediation . . . . .	47
4.2.3 Decision to relocate . . . . .	48
4.2.4 Recognition of a Belgian court order abroad . . . . .	49
4.3 Reactive preventive measures . . . . .	50
4.3.1 Introduction . . . . .	50
4.3.2 Ban on leaving Belgian territory . . . . .	51
4.3.3 Safeguarding identity documents . . . . .	51
4.3.4 Travel documents . . . . .	52
4.3.4.1 Types of travel documents for minors. . . . .	52
4.3.4.2 Consent to travel . . . . .	53
4.3.4.3 Border controls . . . . .	53
4.3.5 Guarantee . . . . .	54
4.3.6 Restriction of access rights . . . . .	55

<b>5. Participants</b> .....	<b>57</b>
5.1 The Federal “International Child Abduction” Contact Point – Federal Public Service of Justice .....	58
5.1.1 Central Authority .....	58
5.1.2 Federal Public Department of Foreign Affairs .....	59
5.2 Judicial authorities and police departments .....	60
5.2.1 Judicial authorities .....	60
5.2.2 Police departments .....	60
5.3 Child Focus .....	61
5.4 Parents associations .....	61
5.4.1 SOS Rapt Parentaux .....	61
5.4.2 VZW BENJAMIN .....	62
5.4.3 Solidarité Rapt Parental .....	62
5.5 Flow charts .....	64
<b>Bibliography</b> .....	<b>68</b>

## **Foreword**

Divorce usually also means suffering and a child is often part of the equation.

For children involved in an international abduction by one of the parents, there is a real risk of losing their right to contact with the other parent for an extended period of time and sometimes even forever. They are left semi-orphaned. And the child has disappeared from sight for the parent who is left behind.

For Child Focus, the Foundation for missing and sexually exploited children, the child's best interest is at the core of all of its actions. Since its establishment in 1998, the foundation has also specifically dealt with the often distressing cases relating to international child abduction. These comprise almost one fourth of the disappearance cases, which means that over the years, Child Focus has been able to acquire a particular expertise in the area. A cooperation protocol which was developed with the Federal Public Services of Justice and Foreign Affairs in early 2007 ratifies our bridging function between the public and the government in this field. We invariably adopt a neutral and 'mediating' position between the abducting parent and the left behind parent, with the child's right to contact with both parents as the only guiding principle.

With ten years of experience, the time had come to invest in research and the development of prevention as well. We gratefully enlisted the help of Hilde Demarré, a Child Focus employee from the outset, who painstakingly developed knowledge and expertise on international child abduction and carefully applied it in practical counselling initiatives. With a great deal of passion and thanks to European Commission funds, she launched the PICA (Prevention of International Child Abduction) project, which resulted in this prevention guide for professionals. The guide is based on prior research (carried out in cooperation with the Catholic Universities of Leuven and Louvain) into the phenomenon of international child abductions in Belgium in the years 2007-2008. A similar study undertaken by our sister organisation Kék Vonal also led to the development of a prevention guide tailored to the Hungarian society.

This guide is intended to be a working tool for professionals who deal with international child abduction in their day-to-day practice. It will help them to detect a possible risk of international child abduction more quickly, to better assess an effective risk and to launch an appropriate assistance. In the future, Child Focus also wishes to invest more in a broader service to parents who live in fear of a child abduction.

We thank the Federal Public Services of Justice and Foreign Affairs for their cooperation in the project: they provided access to the administrative files and offered us their expertise. Finally, and fortunately, there was also a small financial support from Justice, which contributed to the fine publication this guide has become.

Thalia Kruger, who was linked to Child Focus for a full year as a researcher, carried out the quantitative and qualitative study on which the guide is based. After a particularly good cooperation she compiled a fascinating study which, for the first time, gives a comprehensive insight into the phenomenon of international child abduction.

A special word of thanks also goes to the honorary ambassador Baudouin Vanderhulst, whose knowledge and dedication as an 'intermediary' was essential for the smooth encoding of the quantitative file data in accordance with the privacy regulations.

And finally, the steering committee played an active and stimulating role in this invaluable project. I therefore wish to mention them here all by name and to thank them for their expert contribution:

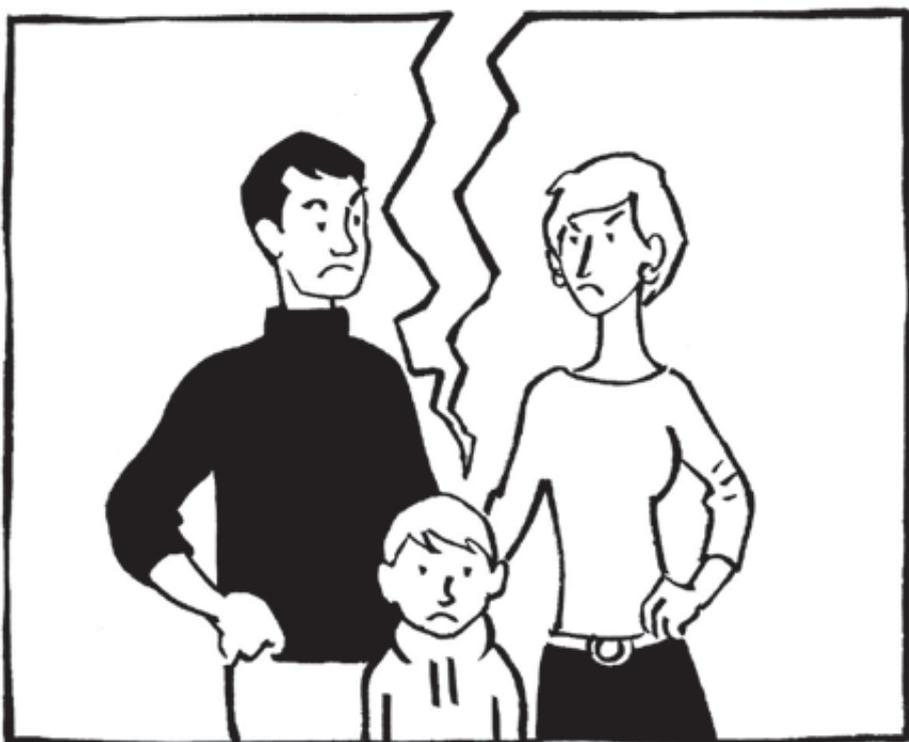
Hanne Claus (Consultant – Child Focus), Sabine De Bauw (Justice – Court of Appeal in Ghent), Anne Leclercq (Deputy Public Prosecutor in Brussels), Julien Magotteaux (Adviser – State Secretariat for the Budget and Family Policy), Josiane Paul (Adviser – Central Authority for mutual legal assistance in civil matters, FPS Justice), Salomé Petter (Attaché – FPS Foreign Affairs), Baudouin Vanderhulst (Honorary Ambassador), Karin Verbist (Lawyer), Silvia Pfeiff (Lawyer), Kathleen Van Cauter (Lawyer and Mediator), Vannessa Elskens (CAW Vilvoorde member of staff), Thalia Kruger (Researcher – Child Focus) and Ellen Stassart (R&P Director, Child Focus).

Child Focus is also counting on them to widely publicise the guide throughout their professional networks so that together we can succeed in preventing international child abduction where possible, in the best interest of the child and the well-being of the (broken) family.

This guide aims to be a blueprint, which can serve as an example in other EU Member States and which can hopefully contribute to increasing the legal security for all EU citizens.

Kristine Kloeck  
General Manager





1

## Introduction

An international child abduction by a parent is actually the result of an escalated family conflict, in which one of the parents unilaterally decides to move to another country and takes his child(ren) with him.

The international dimension of a family conflict not only intensifies the conflict situation but also makes it more difficult to resolve.

*“Living in an international relationship is in itself not a problem. But if the relationship breaks down, this fact can aggravate the situation.” (testimony of a mother whose child was abducted)*

Since the Eighties, a number of international legal remedies have been created that should provide a solution to these often traumatising experiences, both for the children concerned and for the parent left behind, and even for the abducting parent. The Hague Child Abduction Convention was the first and remains the most important international instrument. It stipulates that when a child has been unlawfully taken to another country, the court of this country must order an immediate return to the country where the child habitually resides. The competent court of the habitual place of residence is after all best placed to decide on the division of parental authority between the parents and on the residence of the children.

With the development of the third pillar of the European Union, cooperation with regard to civil law has been further refined. The Brussels II bis Regulation aims for the automatic recognition of court orders on parental responsibility in all EU Member States. These mechanisms are all useful and well-intended instruments of private international law that have certainly proven their effectiveness. Nevertheless, the Member States must recognise that their application in an international context often takes a particularly long time and the procedures remain painful and difficult for the families involved. Despite the child abduction convention, there is still insufficient legal, administrative and judicial cooperation between Member States.

Furthermore, the enforcement of decisions, once a return has been ordered by a court, remains one of the thorniest issues.

The various players working in the field of international child abductions recognise the importance of preventing international child abductions, not in the least the EU. The European Commission thus decided to finance the development of this prevention guide. The guide is intended to be an instrument for professionals who deal with at-risk families in their day-to-day activities.

We are convinced that a sound prevention policy can reduce the number of international child abductions. However, the requirement here is that the people involved in the field are well informed of the available and most desirable prevention mechanisms in each individual situation.

This does not go without saying. The field of professionals that could possibly encounter these at-risk families is particularly wide. It includes lawyers and notaries, public prosecutors and judges, police, psychologists and therapists, social workers and local council officials.

“Lawyers have a responsibility in the prevention of international child abductions. Once I refused to help a client with her unilateral decision to move abroad with her children. By reacting in this way I prompted her to respect the law.” (testimony of a lawyer specialising in international child abductions)

In Belgium, the phenomenon of international child abductions remains limited. This guide is based on a large-scale qualitative and quantitative study of the Belgian situation regarding international child abductions. For the quantitative study, all known cases of the most important involved parties in the years 2007 and 2008 were analysed: the FPS (Federal Public Service) Justice, i.e. the Belgian Central Authority, the FPS Foreign Affairs and Child Focus. Cases managed by the judicial authorities were not included in this study. In total 667 cases spread over two years were examined. Compared to this there were 1,817,847 nuclear families with children in Belgium in 2008. 687,299 (almost 38%) of them were single-parent households. In 2008, there were 35,366 divorces in Belgium<sup>1</sup>. In the light of these figures, the number of international child abductions is small and it is understandable that professionals who work with family conflict situations do not often encounter international child abductions and thus do not always know how to respond to them appropriately.

*“When I warned the police beforehand, they told me that they could do nothing as long as he had not left. And when he left they said to me: “We can’t do anything, he has gone, we can’t do anything in the Persian Gulf.” (testimony of a mother whose child was abducted)*

The guide describes the issue of international child abductions in Belgium, the parties that can be called on to intervene, and the prevention mechanisms that can be deployed to prevent an abduction. In this way, the guide aims to help professionals who have concrete questions on this subject and to assist them with their handling of individual cases. The information in this guide is not comprehensive, but contains many references to additional documents and legal texts.

The structure of the guide will help make it a practical and consultable instrument in the day-to-day practice of professionals who work with at-risk families. In the first instance, the phenomenon of international child abduction is explained

---

<sup>1</sup> Source: FPS Economy, Directorate-General of Statistics and Economic Information, based on the National Register.

from a legal, academic and psychological perspective. Prevention measures are then explained, including a number of very concrete prevention mechanisms. To conclude, a list is provided of parties who can be of assistance in case of practical questions or problems, and who can support parents in the event of an international child abduction. A number of flowcharts have been added showing to which parties can be referred to.

To aid readability, we always use the male pronoun when talking about a parent. It should be taken to mean either the mother or the father.



## **2.1 Definitions**

### **2.1.1 Definition of international child abduction under civil law (Art. 1, 1980 The Hague Child Abduction Convention)**

The removal or non-return of a child is deemed unlawful if the right of parental authority has been granted to the left behind parent by the State where the child had its lawful place of residence immediately prior to its removal. This right must also have been effectively exercised immediately before the removal or non-return.

The right of parental authority can be granted via a court order (judgement, provisional measure, ruling, etc.) but can also be granted as of right or by an administrative decision that has legal force in this State.

### **2.1.2 Definition of child abduction under criminal law (Art 431-432 Penal Code)**

Article 431 punishes the offence of not handing over a minor under twelve years of age to the persons who are entitled to this demand.

Article 432 punishes the father or mother who takes or attempts to take a minor child from the custody of the persons to whom the competent authority has granted it, who does not hand the child over to those who have the right to demand it, or who abducts or arranges to abduct by third parties, even with the child's permission.

If the offender holds this minor outside the territory of the Kingdom, he shall be punished by a prison sentence of a maximum of five years and/or a fine. If the offender is (entirely or partially) divested of his parental authority, then the prison sentence shall be at least three years.

### **2.1.3 Prevention of international child abduction**

The prevention or obstruction of the breach that consists of not respecting the right of personal contact or access rights of one of the two (legal) parents.

## 2.2 National regulations

### 2.2.1 Provisions under civil law relating to parental responsibility

#### 2.2.1.1 Civil procedures when parents separate

When there is no court order with regard to the children, **parental authority** is shared according to Belgian law. This means that the parents are presumed to decide together on all matters regarding the care and upbringing of their children. Once a court order has been issued, parental authority can be shared (joint parental authority) or exclusive. In most cases parental authority is shared, even where there is a break up between the parents. With exclusive parental authority one parent is appointed to take these decisions alone. The other parent maintains a right of information. The reasons for this can be that one parent is not able to make decisions over the children or that the conflict between the parents has escalated to such measure that it has become impossible to take joint decisions.

A court can also decide on the **residence** of the children. Generally, in the event of a divorce the court will order an arrangement whereby the residence of the children is divided between both parents. If parental authority is shared subsequent to a divorce, there is a primary and secondary residence. If the children spend just as much time with each parent, it is called an equally shared residence arrangement. If one parent has exclusive parental authority, the other has a right of personal contact or access. In addition, this parent also has a right of information relating to the decisions on the upbringing taken by the other parent. Generally an order will state with which of the parents the child will be registered in the population registers, and with which parent it will have its secondary residence.

In a prevention case, it can be important to not only state the parent with whom the child will be registered in the population register, but also to specify the address. Subsequently, immediate action can be taken when a parent moves or wants to move abroad with his child, even while the child is allowed to stay with him according to the court order.

#### 2.2.1.2 Civil procedures when parents don't separate

If there is disagreement between the parents on a certain aspect of the child's upbringing (e.g. a visit to family abroad), the court can be asked to make a decision. If the parents are married or legally cohabiting, this can be done

by the justice of the peace; if they are de facto cohabiting, the juvenile court has jurisdiction. This court can entrust the decision regarding one aspect of the upbringing to one parent, without the parents being divorced or separated. Urgent and provisional measures can always be requested in interlocutory proceedings.

In addition, the court can also ratify a mutual agreement between the parents.

This can be an important preventive instrument, because only a court order is enforceable when an abduction must be avoided in extremis.

### **2.2.2 Criminal provisions<sup>2</sup>**

If a child is untraceable after the abduction, or if there is grave concern for the physical or psychological well-being of the child, the left behind parent can submit a complaint of abduction. The requirement here is that the left behind parent has a court order regarding the parental authority and the residence or access arrangements, and that this order has been breached.

When a parent declares the abduction he may, if he so desires, submit a complaint to the investigating judge along with a claim for civil damages. This enables the parent to be kept informed of the ongoing investigation. However, there is a cost attached to this claim for civil damages. When the case is referred to the court, the claim for civil damages enables the parent to become a third party in the proceedings and to seek compensation for damage.<sup>3</sup>

It is generally in the interests of all parties that the father and mother both find a solution to their problem. Sometimes, during the proceedings, an abducting parent and/or the left behind parent may wish to reach an amicable settlement. It is important to continue to encourage parents to find a mutual solution if possible, even if criminal proceedings are already underway.

---

<sup>2</sup> Definition under 2.1.2.

<sup>3</sup> More information on claiming for civil damages in criminal proceedings can be obtained from the following site: [http://www.just.fgov.be/img\\_justice/publications/pdf/8.pdf](http://www.just.fgov.be/img_justice/publications/pdf/8.pdf).

## 2.3 International regulations

### 2.3.1 The Hague Convention of 25 October 1980 on the civil aspects of international child abduction<sup>4</sup>

The Convention provides for the immediate return of children who have been unlawfully removed or are being held in a contracting State.<sup>5</sup> This provides a solution when an international child abduction arises.

In addition, the Convention aims to be an important preventive instrument which was also the explicit intention of its founders<sup>6</sup>. But this and other international instruments on international child abductions can only be effective as a preventive instrument if they are efficiently applied and familiar to the populations of the various Member States. When a parent plans to move to another contracting State with his child(ren), without the consent of the other parent, he will be less inclined to do so if he is aware of the existence and the meaning of the convention. A parent who knows that the immediate return can be ordered will be inclined to ask for prior consent to this relocation abroad from the other parent, or if necessary the court.

The immediate return can be ordered for children under the age of 16 habitually resident in Belgium prior to the removal and who have been taken to a contracting State. The habitual residence of the child is therefore decisive, not the nationality of the parents or children.

The parent who has exclusive or joint custody or the institution to which the child has been entrusted, can apply for its return. The term 'right of custody' is no longer used in our legal system, but nevertheless for many non-lawyers it refers to the person with whom the child lives after a divorce. Within the international context of this Convention, the term 'custody right' has a broader meaning compared to what is called 'parental authority' or 'parental responsibility' in our legal system.<sup>7</sup> In other words, even when there is no court order on the parental authority over the children, or when this authority is shared according to a court order, a left behind parent is entitled to request the return of his child pursuant to The Hague Child Abduction Convention.

---

4 The full text of the convention can be found on [www.hcch.net](http://www.hcch.net).

5 An updated list of the contracting States is available on [www.hcch.net](http://www.hcch.net). For the acceding States it is important to check whether Belgium has declared its acceptance of the acceding State.

6 The States that were members of The Hague Conference on Private International Law at the time of its Fourteenth Session.

7 Art.5 defines the right of custody as the right relating to the care for the person of the child, and in particular the right to decide on its place of residence.

Generally, the application is made to the Belgian Central Authority<sup>8</sup>, but this is not obligatory. If it is known where the child lives, a parent can also approach the Central Authority of the country to which the child has been taken, or even directly the competent court in that country. In such a case, however, the parent cannot call on the expertise and help of the Belgian Central Authority.

It is in the interest of the left behind parent to submit an application for the child's return without delay. If an application is made one year or more after the child's removal, the court can take into account the integration of the child into its new environment and may subsequently deny the request for its return.

In addition to this ground for refusal, a number of others have been stipulated within the Convention:

- After the removal or non-return of the child, the left behind parent has consented to or subsequently acquiesced in the situation.
- There is a grave risk that upon its return the child will be exposed to a physical or mental harm or will be placed in an intolerable situation.
- The child objects to the return and has reached an age or maturity at which it is appropriate to take account of its views<sup>9</sup>.

Finally, the Convention may also be used in situations in which a cross-border visiting right has not been respected. Seen as the Convention is very vague for these cases<sup>10</sup>, its application in the contracting States can vary significantly.

### 2.3.2 (EC) Regulation No. 2201/2003, “Brussels II bis”<sup>11</sup>

The Brussels II bis Regulation concerns the jurisdiction, recognition and enforcement of decisions in marital affairs and in cases concerning parental responsibility, and came into effect on March 1<sup>st</sup> 2005. The Regulation applies to all European Union Member States, except for Denmark.

The Regulation deals with both the problem of international child abductions and the non-observance of transfrontier visiting rights and is a supplement to The Hague Convention of October 25<sup>th</sup> 1980.<sup>12</sup>

<sup>8</sup> More information on the Central Authority is available in chapter 5.1.1

<sup>9</sup> This age can vary significantly between the different Member States

<sup>10</sup> Art.21 §2 The Central Authorities are bound by the obligations of co-operation to promote the peaceful enjoyment of access rights and the fulfilment of any conditions to which the exercise of those rights may be subject. The Central Authorities either directly or through intermediaries may initiate or assist in the institution of proceedings with a view to organizing or protecting these rights and securing respect for the conditions to which the exercise of these rights may be subject.

<sup>11</sup> The full text is available on <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2000:160:0019:0036:N L:PDF>

<sup>12</sup> For the application of this Regulation: Handbook for the application of the new “Brussels II” Regulation or via [www.europa.eu.int/civiljustice](http://www.europa.eu.int/civiljustice).

The Regulation stipulates in particular that when a court of the country to which the child has been taken refuses the return, the final decision regarding the authority – and consequently the return – must be taken by a court in the country where the child had its habitual residence before its removal.

Moreover, with regard to the right of access, an important innovation has been introduced, such that under certain conditions it is possible to apply the decisions in this respect directly in the various EU Member States, without supplementary proceedings for recognition and enforcement of judgements.

### **2.3.3 Bilateral agreements<sup>13</sup>**

#### **2.3.3.1 Bilateral agreement with Morocco**

Since 1981 there has been a protocol agreement between Morocco and Belgium that sets up a Combined Advisory Committee for civil matters<sup>14</sup>. The committee is authorised to examine individual cases relating to disputes concerning the status of persons, in particular the right of parental authority and residence.

When a parent's children have been abducted to Morocco or when he cannot exercise his access rights, he can turn to the FPS Justice. They will contact the Moroccan Ministry of Justice in view of reaching an amicable settlement.

If an amicable settlement cannot be reached, the parent can go to court. If he is unable to pay, the parent can obtain legal aid.

If a return turns out to be impossible, the FPS Justice together with the Moroccan Ministry of Justice can examine what can be done to prevent the relationship between the petitioning parent and the child being broken.

On March, 9<sup>th</sup> 2010 Morocco ratified the Hague Child Abduction Convention. If/when Belgium accepts this accession, the bilateral agreement will no longer be used for international child abductions.

<sup>13</sup> The full text of both agreements is available on the website of the FPS Justice, in the International Child Abductions section, under 'Justice from A to Z'.

<sup>14</sup> Agreement between the Kingdom of Belgium and the Kingdom of Morocco of 30 April 1981 on mutual legal assistance in civil, commercial and administrative matters, as well as on legal information.

### **2.3.3.2 Bilateral agreement with Tunisia**

Since April 1989, Belgium and Tunisia have been bound by a protocol agreement that sets up a Combined Advisory Committee in civil matters.

Its content is almost identical to the protocol agreement with Morocco, certainly with regard to its application in international child abductions.



3

## The phenomenon of international child abduction

## 3.1 The Belgian situation in figures

To prepare for this guide Child Focus conducted in 2009 a large-scale quantitative and qualitative study into international child abductions in Belgium.<sup>15</sup> This is the first study to map out the situation in Belgium. The aim of this study was to obtain the best possible insight into the phenomenon. The sociomorphology of the families concerned was analysed and the application of the procedures examined. Furthermore, an attempt was made to shed light on the psychosocial aspects of international child abductions.

The results of this study are briefly explained below.

### 3.1.1 General data

For the quantitative study, more than 700 cases were examined. These are the international child abduction cases handled by the FPS Justice, that acts as the Central Authority for international child abductions, the FPS Foreign Affairs and Child Focus. All cases dealt with in the years 2007 and 2008 were reviewed. Of these, 667 cases were selected for this study, as they were the only ones that satisfied the definition of an international child abduction. The selected cases were coded into a list of 89 variables which provide information on the profile of the abducting parent, the left behind parent and the abducted children, the family situation, the abduction itself and the procedures applicable to secure their return and after the return. This study thus gives us an overview of the phenomenon of international child abduction in Belgium, as all cases handled by the three most important participants dealing with the problem were included. The judicial authorities are also an important player in this matter. But seen as they do not have any central data management, it was unfortunately not possible to incorporate their cases into the study.<sup>16</sup>

612 of the 667 cases selected involved an unlawful transfer from one country to another. The other cases involved the non-observance of a transfrontier access rights. In these cases the transfer of the child from one country to another was not unlawful, but the left behind parent could not exercise his access rights as a result of this transfer.

76% of the cases examined involved an abduction from Belgium to another country. The remaining cases were children who had been brought to Belgium from another country (20%) or abducted from another country to another country (4%). These last

---

<sup>15</sup> The results of this study are available on [www.childfocus.be](http://www.childfocus.be)

<sup>16</sup> The judicial authorities was involved in the study and in developing this guide through their active contribution as a member of the supervisory committee. Legal sector professionals were also interviewed as part of the qualitative study.

cases are not normally handled by the Belgian authorities, but they were exceptionally opened, e.g. because the child lived for a limited time in Belgium, because it travelled through Belgium with the abducting parent, or because it was suspected that the child was located in Belgium.

A notable finding is that many more abductions were registered from Belgium than to Belgium. This is due partly to the sources of the material for this study. Only the FPS Justice is regularly confronted with abductions to Belgium. The FPS Foreign Affairs deals solely with abductions from Belgium to another country, and Child Focus, a Foundation that is mainly familiar to the Belgian population, numbers few abductions from another country in its caseload. The judicial authorities will probably deal with the bulk of incoming abduction cases, but they were not included in this study. The findings of the study give a somewhat distorted picture of the reality in this respect.

The same trend can also be observed in the cases involving the transfrontier contact rights. In 49 cases the children were located abroad; in only 8 cases were the children in Belgium.

### 3.1.2 The abducting parent

When we look at the abducting parent we see a preponderance of abducting mothers. In more than 65% of the cases, it was the mother who abducted the children, while in only around 33% of the cases was the father the abductor. In 1.5% of the cases the children were abducted by a grandparent or another family member or even a 'third party' (e.g. stepfather or godmother).

It is notable here that mothers who abducted their child generally had the primary or joint custody over the children. In almost 90% of the cases the children spent at least 50% of the time with their abducting mother. When fathers abducted, in half of the cases the children did not live with him.

Generally speaking in 79.2% of cases a child was abducted by the 'primary caretaker'. This is the person who cares for the child in the first instance.<sup>17</sup> The common assumption that parents abduct their children because they have little or no contact with them is thus not confirmed. Indeed, this finding is in line with existing international research<sup>18</sup>. Furthermore, the proportion of abducting mothers was higher when the couple was still together (married or legally or factually cohabiting). After a divorce or a de facto separation, their relative share in the 'abducting parent' group was smaller, although they still remained the majority.

17 These figures are based on administrative data. It is thus possible that the actual situation differs from the known data, because family dynamics are sometimes difficult to derive from an administrative file.

18 Lowe, N, Armstrong, S., Mathias, S., A Statistical Analysis of Applications made in 1999 under the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction, Family Law, 2001.

A notable finding is that there is a link between the destination and the sex of the abducting parent. On average, the mother was the abducting parent in 62% of the abductions from Belgium. This percentage rises to almost 68% for abductions to another EU country, and to 77% for Asia. In abductions to North Africa, however, in approximately 58% of the cases the father was the abducting parent, and the same counts for of abductions to Central Africa (57%). When a child was abducted to the Middle East it was by the father in 80% of cases.

It is particularly difficult to draw conclusions from the data collected on the nationality of the abducting parent. More than 100 different nationalities were registered. The only significant finding here is that 17% of the abducting parents had at least dual nationality. We assume that this figure is higher in reality because the Belgian authorities are not always informed of the other nationalities of their nationals. The left behind parent had in 11% of the cases at least dual nationality. Unfortunately it was not possible to gather information on the origin of the parents.

### **3.1.3 The abducted children**

When we look at the average age of the children who were the victim of an international child abduction, we see that it is quite low. Half of the abducted children was six years old or younger, and more than 80% was 10 years or younger.

In addition, child abductions primarily occurred in small families. In 60% of cases there was only one child in the family, and in more than 26% there were two children.

Generally a parent abducted all his children together. Only in 9% of cases were not all children of the family abducted.

Girls and boys were abducted in approximately equal numbers.

At least 30% of abducted children had a dual nationality. A percentage which lies higher than for the abducting parent. This finding emphasises the importance of paying sufficient attention in prevention cases to the issue of applications for multiple identity documents and passports.

One hypothesis was that parents abduct their children to their home country. This is only a fact in 58% of the cases, which demonstrates that other motives are important when a parent decides to abduct his children. The parent also goes to family or friends abroad or follows a new partner. In some cases the parent flees from his place of residence, for example because of debts, and he is not so much going towards a specific country rather than away from a country.

### 3.1.4 The abduction

When a child was abducted from Belgium, in 52.7% of the cases it was to another EU country and in 7.6% to another European (non-EU) country. 12.6% of the abductions from Belgium were to North Africa, 5.6% to Asia, 5.4% to the Middle East and 5% to Latin America. 3.9% of the abductions from Belgium were to North America. This refutes the stereotypical image of abduction to North African countries.<sup>19</sup>

When it concerned an abduction to Belgium, in more than three-quarters of the cases the children came from another EU country. In 7% of the cases these children came from North America and in 6% from North Africa.<sup>20</sup> Here too it can be assumed that the results are distorted by the sources of the material, because abductions to Belgium are primarily handled by the FPS Justice<sup>21</sup>.

Although the figures do not cover the entire population<sup>22</sup>, it is notable that in more than half of the cases the children were abducted during a holiday period. In 33% of the cases, the abduction took place during the week and in almost 15% of cases in the weekend.

### 3.1.5 The return

When we look at how a child abduction was resolved, not all cases can be included in the analysis. A large number of cases were still ongoing at the time of the coding. In addition, a number of cases dealt with the right of access and a return was not on the agenda. Finally, not all cases contained information on the outcome of the abduction. This left 369 cases for this analysis.

In 66% of these cases the children were returned, in 34% of the cases they were not returned.

In 47% of cases a mutual agreement between the parents brought about a solution, which ensured a return in approximately 85% of the cases.

In 9% of the cases a procedure under the Brussels II bis Regulation<sup>23</sup> provided a solution. In around 66% of these cases it meant the return of the children.

<sup>19</sup> Other parts of the world had a low percentage

<sup>20</sup> Other parts of the world had a low percentage.

<sup>21</sup> The FPS Foreign Affairs handles the cases that fall outside the scope of application of the international instruments and they do not handle cases of abductions to Belgium.

<sup>22</sup> Only in 57% of the cases examined was information available on this.

<sup>23</sup> To supplement The Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction.

In 7.3% of the cases a procedure under the Hague Child Abduction Convention provided a solution, which led in around 70% of the cases to the return of the children.

In 12.5% of the cases a judgement on the substance provided a solution. This means that a court ruled on the parental authority and residence. In half of the cases this judgement brought about the return of the children.

The protocol agreements with Morocco and Tunisia provided a solution in 0.5% and 1% of the cases respectively, which in all cases led to the return of the children.

In almost 2% of the cases a counter-abduction 'resolved' the case, and one and a half per cent of the abduction cases ended with the children coming of age.

In almost 30%, the left behind parent broke off contact with the competent authority (authorities). This does not necessarily mean that the parent was resigned to the situation. However, we do not have any information on additional steps he or she took.

In approximately 3%, the case was finally closed without a solution having been found.

These figures show that the legal instruments specifically designed to combat international child abductions only lead to a solution in a minority of the cases, and to a return in even fewer cases. It is of course possible that the existence of these instruments ensures that international child abductions are avoided or that they prompt the abducting parent to voluntarily return the child (and thus reach a mutual agreement).

If we examine all cases in which the Brussels II bis Regulation can be used (within the EU, except Denmark) we see that in 40% of these cases a mutual agreement led to the solution, and that in only 10% of the cases the application of the Regulation<sup>24</sup> did provide the solution. In cases to which The Hague Convention could be applied, we see that 50% were resolved by mutual agreement. In cases to which no instruments could be applied, this was 60%.

A notable difference can be observed when criminal proceedings are taken against the abducting parent. In cases where the Brussels II bis Regulation applies, criminal proceedings only provided a solution in 5% of the cases; with the application of The Hague Child Abduction Convention, this was only 3%. When no instrument could be applied, this

<sup>24</sup> As a supplement to The Hague Child Abduction Convention.

percentage doubled to around 10%. The international instruments thus ensure that an international child abduction by a parent is less often dealt with under criminal law.

The most successful method for resolving an international child abduction thus seems to be a mutual agreement. Mediation is one of the instruments that can be applied to reach this agreement. The use of mediation during the abduction period was incorporated into this analysis but we only had information available on mediation in 62% of the cases. In 20% of these cases mediation was used.

Finally, we have found that the duration of an abduction can vary greatly. For abductions to Belgium the average duration of an abduction was 10 months. After 6 months, half of the abductions had been resolved, after 1 year 70%, and after 2 years 90% of abductions seemed to have been resolved. An abduction thus generally lasts quite a bit longer than the 6 weeks that The Hague Child Abduction Convention presupposes.

The duration of an abduction from Belgium differs sharply according to the country to which the child has been abducted.

For EU countries to which the Brussels II Regulation applies, the average duration was 13.9 months. After 6 months, 27% of cases have been resolved, after 1 year 63%, and after 2 years 82%.

In countries where The Hague Child Abduction Convention applies, the average duration of an abduction was 11 months. 32% of abductions were resolved after 6 months, 68% after 1 year, and 89% after 2 years.

Abductions to Morocco, to which the protocol agreement with Morocco applies, lasted 26 months (more than 2 years) on average. After 6 months, 43% of abductions were resolved, after 1 year 57%. However, some abductions dragged on for a particularly long time. The longest abduction lasted 8 years.

Abductions to Tunisia, to which the protocol agreement with Tunisia applies, lasted 59 months on average (almost 5 years). 20.2% of cases were resolved after 6 months, 44.4% after a year. The longest abduction lasted more than 11 years.

Finally, there were cases to which no instrument could be applied. These abductions lasted 20 months on average. After one year approximately half of the children had returned. After two years, this was 88%. The longest abduction lasted more than 13 years. It is clear that abductions to countries with which Belgium does not have an agreement last longer on average.

## 3.2 Psychological impact of international child abductions

### 3.2.1 Introduction

Parents who abduct their children often scarcely consider the psychological impact of this sudden departure. It is obviously emotionally difficult when a child has to leave its normal environment. It is therefore not unusual for many children, sometimes years after the abduction, to experience its psychological effects.

For the parents too, an abduction is difficult to process psychologically. The left behind parents say that the period of abduction is painful and lonely, even when contact with the abducted children is maintained during this period.

Between the children and the abducting parent there can be a breakdown of trust which is sometimes difficult to mend.

It is important for a parent who considers taking his child with him to another country to understand what the psychological consequences of an abduction could be and to see if a solution can be found before the departure, which takes into account the well-being of all parties concerned. This chapter may provide help.



### 3.2.2 Psychological impact for children

In reality, an international child abduction often results in the contact between the children and the left behind parent being broken for a long period of time. The abducting parent not only denies the other parent contact with his child(ren) and vice versa, but also denies the child all contact with his familiar environment (his 'home', school, toys and neighbours, his friends and/or family).

Because these children are often young (on average 6 years old) a sudden rupture, even for a relatively short period, can be detrimental to the emotional development of a child.<sup>25</sup>

In international child abductions, Richard Gardners parental alienation syndrome (PAS) is frequently referred to (by parents and also by professionals). This model was adjusted in 2001 by Kelly and Johnston. The existence of this syndrome was subsequently questioned by researchers and clinical psychologists.<sup>26</sup> In recent scientific research on this subject, the emphasis is primarily placed on the behaviour that can influence the relations of parents after a divorce.

In general it is assumed that the complete cessation of all contact between parent and child is only very rarely in the interest of the child. Children themselves also say that the emotional importance of their relationship with both parents does not change with a divorce. Only in very exceptional cases (e.g. child abuse) is it possible that regular contact between the parent and child is not in the best interest of the child.

When a child experiences problems maintaining contact with one parent, a variety of reactions is possible, from aggression to withdrawal and depression. Children become worried and can experience difficulties in expressing affection. Problems can arise at school or in their relationships with friends. Older children can become rebellious and in some cases there can be drug abuse. Emotional problems have been found in some children. They seem to be very lonely and have a distorted view of reality.<sup>27</sup>

Even long after the abduction, until young adulthood, these children often continue to experience emotional and even physical problems as a result of the abduction.<sup>28</sup>

25 Greif, G.L., Hegar, R.L., Parents who abduct. A qualitative study with implications for practice. *Family relations*, 1994, page 283.

26 e.g. Bruch, 2001, Freckleton & Selby, 2002, Wall, 2002.

27 Freeman, R., Freeman, G., Gérer les difficultés de contact: une approche axé sur l'enfant. *Journal du droit des jeunes*, 2004, Vol. 237, page 9.

28 Greif, G., A parental report on the long-term consequences for children of abduction by the other parent, *Child Psychiatry and Human Development*, 2000, Vol.31 (1), page 70.

### 3.2.3 Psychological impact for parents

For the left behind parents it is often very difficult to maintain contact with their children during the period of abduction. In the qualitative analysis of the study, various reasons were given for this.

In the first instance, the abducted children are sometimes too young to have a real conversation by telephone. Sometimes these conversations are also hampered or made impossible. The abducting parent does not allow the child to come to the phone because, for example, he is eating, or he controls the conversations and decides when to cut in.

Some parents say that it is also difficult to maintain contact with older children. They do not know what to tell their child, cannot say that they have been abducted but do not want to conceal the truth either.

Although this contact is very difficult for left behind parents, it is of great importance, both for the children, as shown in the previous chapter, and for the parents themselves. The worst cases are those in which the child feels abandoned by the parent. In such cases, the child develops low self-esteem and can experience problems with trust.<sup>29</sup> When the contact between the left behind parent and the children is not severed during the abduction, the family will be able to recover more quickly after the return.

Even years after the abduction, the left behind parents say that they regularly feel anger towards the other parent, and experience feelings of revenge, depression and anxiety.<sup>30</sup>

The abducting parent can experience difficulties in maintaining contact with the children after the abduction is over. Longitudinal research has shown that more than half of the abducting parents have less contact with the children after the abduction than before. Over time, this contact reduces further.<sup>31</sup>

Our research shows that just after the end of the abduction, a new arrangement for the secondary residence or the access rights was made in more than 40% of the cases, and a new arrangement on the primary residence in 37.6% of the cases. Families in which there was no new arrangement possibly made arrangements at a later stage; this information is not included in our research.<sup>32</sup>

---

<sup>29</sup> Research by Williams (1990) for example.

<sup>30</sup> Greif, G., *I.c.*, page 68.

<sup>31</sup> Greif, G., *I.c.*, page 67.

<sup>32</sup> Kruger, T., Research report on International Child Abduction by parents to and from Belgium in 2007–2008. Brussels, 2010, page 172.

In any case this shows that a large proportion of families undergo dramatic changes, not only during but also after, and sometimes even long after the abduction. The abduction affects the lives of parents and children long after the return.





## 4.1 Fear versus genuine risk

### 4.1.1 Introduction

The assessment of the real risk of abduction is possibly the most difficult aspect of a prevention case. Even professionals with many years of experience say that it is difficult to determine whether or not the fear of abduction is founded.<sup>33</sup>

There is an important difference between the fear of an abduction and the real risk of an international child abduction. Nevertheless it is important for this risk to be properly assessed. The prevention mechanisms put in place must meet the real risk of an international child abduction.

There can be various reasons to abduct children. This is explored in greater depth in chapter 4.1.3. But it is not always clear whether it is preceded by a genuine risk of abduction. Sometimes there are clear indications (e.g. purchase of air tickets), but generally this is not the case. The seriousness of the conflict the couple faces is naturally a major factor, but their common history is also important. Often it is a combination of factors.

The aim of this chapter is to help you assess the real risk of abduction and to deploy the most appropriate prevention mechanisms.

### 4.1.2 Fear of an international child abduction

Frequently a parent fears an international child abduction without having a specific reason. This fear is primarily present when parents have bicultural relationships and results from various causes.

One of the most important of these is a relational conflict. Parents who have relationship problems or who break up often fear losing their child<sup>34</sup>. The parents questioned in our research indicated that these conflicts are bigger in a bicultural relationship.<sup>35</sup> In these situations a parent may fear that a divorce will lead to the other parent wanting to live in another country.

---

33 Kruger, T., Research report on International Child Abduction by parents to and from Belgium in 2007–2008. Brussels, 2010, page 290.

34 de Hart, B., Internationale kindervervoering. Oorzaken, preventie en oplossingen. Utrecht, 2002, page 17.

35 Kruger, T., *I.c.*, page 182.

Cultural prejudices, both among the parents themselves as well as their families and friends, can also reinforce the fear of a child abduction. Thus the phenomenon of international child abduction in Belgium is still very often – wrongly – regarded as a cultural problem. All too often it is assumed that the abducting parent is a Muslim male who abducts his children to take them to his family.

The fear of an international child abduction can also be fed by the family or friends of the parent. The influence of family members in particular is often more marked in such cases.<sup>36</sup>

Finally, the fear of an international child abduction is also caused by a lack of legal resources. The parent knows that, once the child is taken abroad, there are only a limited number of legal remedies available and it can be particularly difficult to get the child returned. Sometimes there is a duality in legal systems which can lead to contradictions and cause legal uncertainty.

It could happen that according to a court order in country X the children must live with the mother, while according to a court order in country Y they must live with the father.<sup>37</sup>

The fear of a child abduction for one or more of the above mentioned reasons may be unfounded, but is probably also partly fact-based. And the more ‘factual’ indications there are, the greater the risk of abduction. An appropriate response should always consider both possibilities.

## **4.1.3 Assessing the genuine risk**

### **4.1.3.1 Introduction**

When a parent fears that his children will be abducted by the other parent, there is generally a particular reason for it. This reason is often subjective and sometimes based on prejudices and unfounded fears. But very often this fear is also founded on concrete facts.

It would be imprudent, when a person’s fear of an international child abduction is induced by his family or friends, to simply dismiss this fear as unfounded. Even if the original cause is a comment by a family member, the fear can also be fed by firm indications and/or behavioural changes in the other parent.

---

<sup>36</sup> Ganacia, D., *La médiation familiale internationale. La diplomatie du cœur dans les enlèvements d’enfants*. Paris, 2007, page 142.

<sup>37</sup> De Hart, B., *l.c.*, page 18.

Furthermore, the fear cannot be dispelled as long as it has not been given the necessary attention. The risk of an inappropriate response by the parent who fears an abduction only increases as a result.

Neither is it appropriate to immediately act on the fear of an abduction, without first investigating the extent to which it is based on a genuine risk. If you apply a legal response to an emotional expression, it is very probable that the family balance will be upset rather than improved.

To immediately apply a legal response to the fear of a child abduction can indeed have a destabilising effect. A parent who suddenly has his access right curtailed, because the other parent wrongly fears an abduction, would find it difficult to reconcile himself with the new access arrangements. It is certainly not inconceivable that he would not accept the decision and start new proceedings. In the worst case scenario such a court order can instill in the parent the very idea to abduct his children.

In addition, it is often not in the best interest of the children to simply restrict the contact with both parents for no apparent reason.

An appropriate response is therefore certainly not self-evident. The fear of the parent must in any case be acknowledged and discussed. This is the first necessary step. It will be a relief for the parent to be able to discuss his fear, get an objective answer to his questions and to talk about the problems in the relationship.<sup>38</sup>

Opening the fear up to discussion does not mean that the fear is well-founded. It will help the parent to better assess himself the extent to which his fear is well-founded. When, from the discussion no concrete facts emerge which point to an impending child abduction, it will be necessary to further analyse the situation to ascertain why the parent is fearful. The elements considered in chapter 4.1.2. can be useful here.

A great deal of research has been done in the past into the causes and reasons for international child abductions.

The risk factors can be found in the profile of the abducting parent and his family situation. The characteristics described in international literature<sup>39</sup> are generally in line with those of our own research.<sup>40</sup> But just because you are a father with a 5 year-old whose mother has dual nationality does not necessarily justify the fear of a child abduction.

---

38 de Hart, B., *l.c.*, page 19.

39 Research by, among others, Greif G.L. and Hegar R.L., Carmody, D.C. and Plass P.S., Finkelhor D., Hotaling G. and Sedloak, A., Johnston, J.R., Girdner L.K. and Sagatun-Edwards, I.

40 Chapter 3.1. gives a brief summary of these results.

Extensive international qualitative research<sup>41</sup> gives us an idea of the causes and motives which prompt an abducting parent to abduct his children. The main causes are listed below. They can help assess whether the fear of an abduction constitutes a real risk.

#### 4.1.3.2 Crisis in the relationship/end of the relationship

When a relationship ends or is in crisis, the parents often live in fear of losing their children. This fear is, obviously, more pronounced when the parents have dual nationality, are of a foreign origin, or have family who lives in another country.

The ending of a relationship is certainly an important cause of an abduction, but it is evidently not a sufficient reason in itself. One of the parents starting a new relationship can also lead to an abduction, especially when the children primarily live with that parent.<sup>42</sup>

An element which can increase the risk of a child abduction is the fact that the relationship problems are due to cultural differences and the children having a bicultural upbringing. When one of the parents, for example, denies the value of a bicultural upbringing, or when the parents fundamentally disagree on this, there is an increased risk of child abduction.

When the end of a relationship also signifies the loss of a residency permit, the risk is even more real.

Research shows that this risk increases through negative experiences parents have had with professionals regarding their divorce, and primarily with the courts.<sup>43</sup> A parent then abducts his child in order to pre-empt a court order on the parental authority and/or residence or to evade the enforcement of a decision already taken. Frustration and dissatisfaction with an access arrangement can also lead to abduction.<sup>44</sup>

41 Research by, among others, Greif G.L. and Hegar R.L., Doek J.E., Doreleijers T.A.H. and Ceulen E.M., Sagatun I.J. and Barrett L., Johnston J.R. and Girdner L.K.

42 Doek, J.E., *Internationale kindervoering. The last battle of the marital war? Justitiële Verkenningen*, 1985, page 36-37.

43 Greif G.L., Hegar, R.L., *When parents kidnap. The families behind the headlines*, Michigan, 1993, page 286.

44 Doek, J.E. *l.c.* page 36-37.

Some parents say that legislation and case law are not relevant to the modern family, in which the traditional roles of the sexes are no longer the norm.<sup>45</sup> Also in our qualitative research, several fathers stated that mothers are still favoured by the courts when it comes to the residence and parental authority over the children.<sup>46</sup>

Finally, a failed divorce mediation can lie at the heart of a child abduction. When parents feel they have been misunderstood or feel that they must comply with conditions they actually disagree with, the risk of them taking the law into their own hands increases.<sup>47</sup>

Various studies emphasize the power struggle between parents when a relationship breaks down. Revenge is a strong motivation for abducting a child. Furthermore, some parents also want to prompt their (ex-)partner to follow them by leaving with the children. These causes are primarily due to the mental health of the parents.<sup>48</sup>

Finally, it has also been shown that long-term violence in a relationship can lead to an international child abduction.<sup>49</sup>

#### **4.1.3.3 Homesickness for the country of origin**

Our quantitative research shows that a significantly high percentage of abducting parents have more than one nationality. The qualitative research shows that child abduction is often prompted by homesickness for the mother country.<sup>50</sup>

This cause is highly dependent on the level of integration in the country where the family originally lived.

There is an increased risk of child abduction when one of the partners has frequently expressed the desire to return to the country of origin, or when there has been disagreement within the couple for many years on the country of residence.

---

45 Sagatun I.J., Barrett, L. Parental child abduction: the law, family dynamics and legal system responses, *Journal of criminal justice*, 1990, 433-442.

46 Kruger, T. *I.c.*, page 236.

47 de Hart, B. *I.c.* page 27.

48 Sagatun I.J., Barrett, L., *I.c.*, 433-442.

49 Greif, G.L., Hegar, R.L., *I.c.*, page 286.

50 Kruger, T., *I.c.* page 183.

When this homesickness coincides with a crisis in the relationship (or a divorce), it is appropriate to examine the views of a parent of foreign origin on his country of residence. Poor integration or social isolation will reinforce the desire to return to the home country.

Concrete indications are, for example, unemployment, not mastering the language of the country of residence, no friends, an education cut short.

#### **4.1.3.4 Relocation**

##### **4.1.3.4.1 Risk of alienation of the left behind parent**

When one of the parents decides to move abroad, in practice this will mean that the child will have parents in two different countries. This decision must be taken by both parents together. This can be done in mutual agreement or, if they do not succeed in doing so, through a decision by the competent court. In any case it is necessary to have a court order before actually moving house. Thus a parent avoids, by the fact of him moving house, committing an international child abduction and then, through the application of international instruments, finally being compelled to return the children to their habitual place of residence.

Regardless of how the residential arrangements are made, the right of access will be cross-border. In many cases the right of access will be exercised less often but for longer periods, because the distance is too large to cover on a regular basis.

When the child moves with the parent to another country, the left behind parent may fear that he will not see the child again. In the worst case scenario, this fear can prompt him to abduct the child. Possibly this fear lies not so much with the parent himself but primarily with his environment. In any case it is also important to evaluate the context. The first important indication can be found in how satisfied the left behind parent is with the agreed or imposed access arrangements. An important motive in international child abductions is after all the love for the children and the desire to be with them.<sup>51</sup>

---

<sup>51</sup> Doek, J.E., *l.c.* page 36–37.

But even when a parent is satisfied with the access arrangements, he may fear his alienation. This is primarily the case when the left behind parent fears that the agreed access arrangements will not be respected. An analysis of the individual situation will be important to assess the extent to which this fear is founded.

A number of concrete questions can serve as a guide:

- Are the parents financially and practically able to implement the access arrangements? (e.g. in the event of expensive long-distance flights)
- Are the access arrangements feasible for the child? (e.g. two-weekly journeys of 5 hours)
- Have the parents taken measures to ensure contact with the left behind parent between the access periods (e.g. weekly telephone calls, Skype, etc.)?
- Does the left behind parent have sufficient information on the living conditions of his child in the new country and does he have a say in the upbringing of the children? How is this arranged?
- Do the children have the necessary travel documents to travel back and forth regularly (e.g. if the parent has moved because his residency permit has expired)? When the child is too young to travel alone, the parents also need the necessary travel documents to accompany the child on the journey.
- Are there systems in place to demand the return of the children if the access arrangement is not respected (e.g. will the child move to a contracting state)?

Research has shown that many parents who request the return of their children under The Hague Child Abduction Convention after an international child abduction would actually be satisfied were the access arrangement respected. This therefore means that the development of good cross-border access arrangements could reduce the number of international child abductions.<sup>52</sup>

#### **4.1.3.4.2 Risk of abduction by the parent with the primary residence**

But even with an agreement and/or a court order governing a relocation, an abduction is still possible.

The parent who decided to move abroad with the children may fear that the other parent will abduct the children and/or not return them after they have had access. This fear can provoke a decision by the parent with whom the child primarily resides not to let the children go to the other parent. Subsequently he himself is responsible for child abduction, or at least non-observance of a cross-border right of access.

---

<sup>52</sup> Lowe, N., A statistical analysis of Applications made in 2003 under the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction (2007 update). The Hague, 2007, page 44.

An important reason for abducting children turns out to be, among other things, a previous threat or abduction by the other parent. In fact, a parent abducts his child to prevent an abduction by the other parent.

Here, too, it is important to examine whether the fear is based on objective elements or has been instilled in him, for example by his family and friends, the media, etc.

When good access arrangements have been made (i.e. an arrangement with which both parents agree) and this arrangement is observed, then the risk that the left behind parent will not return the children after the visiting period, decreases.

#### **4.1.3.5 Disrupted family relations**

The extended family relations also play an important role in bringing about a residential arrangement. When working in an international context this element is often stronger.

When grandchildren move abroad, grandparents may fear losing all contact with their grandchildren. In this way they will be more inclined to influence the agreements that the parents make with one another. This can possibly intensify the conflict between parents.

There are a number of characteristic elements when it comes to international child abductions. For example, the risk of an abduction increases when the family of one of the two partners never accepted the relationship and when the relationship with the family-in-law is poor. Sometimes parents lived together or married against the advice of their family. When there is a conflict within the relationship, or when the relationship has ended, these old warnings come back to the surface and thus intensify the conflict.

Also the sudden death or serious illness of a grandparent who lives abroad can prompt a parent to leave for that country.

Naturally, the family background also plays an important role. Abducting parents tend to come from a dysfunctional family.<sup>53</sup> Problematic and unprocessed events from the past of one of the parents can affect later decisions.<sup>54</sup>

---

53 Janvier, R.F., Mc Cormick, K. Donaldson, R., Parental kidnapping: A survey of left-behind parents. *Juvenile and Family Court Journal*, 1990, 41, page 1-8.

54 de Hart, B., *l.c.*, page 27.

It is therefore recommended, when working with these at-risk families, to always take account of the family and the immediate environment of the parents.<sup>55</sup> If desirable and possible, they can even be directly or indirectly involved in the divorce process.

#### **4.1.3.6 Financial or material difficulties**

Finally, it regularly happens that parents abduct their child(ren) because they are in a hopeless position due to financial or material difficulties. In such cases they can envisage no other way out than to flee.

The clearest example of this is the foreign partner whose residence status has become uncertain due to a divorce.

A decision to abduct is also often rooted in financial difficulties. The financial situation of families who are the victim of an international child abduction is less rose-coloured than the average. These families less often consist of two wage earners, and at the time of the abduction, abducting parents often have an unstable employment situation, have no work or their job is not tied to a particular location.<sup>56</sup>

In some cases a parent flees legal problems and hopes, by moving to another country, to evade the Belgian courts.

Although these problems are not frequently cited as a reason for abduction, in combination with other factors they can indeed be a cause.

## **4.2 Proactive preventive measures**

### **4.2.1 Introduction**

As discussed above, one parent may fear that the other will take the child away with him. We have endeavoured to map the most common causes of an international child abduction. Sometimes, however, there is no direct cause for this fear and the arguments are possibly unfounded. Nevertheless, it is not advisable just to dismiss them. An appropriate response is required.

The measures discussed below should help prevent an abduction, without needlessly imposing restrictions on the other parent or interfering with his rights. Some measures can, however, restrict the fundamental rights and freedoms of a parent. On the other

---

<sup>55</sup> Ganancia, D., *l.c.*, page 142.

<sup>56</sup> e.g. de Hart, B, *l.c.*, page 35 and Greif, G.L., Hegar, R.L., *l.c.*, page 285.

hand they can create an environment that discourages international child abductions and favours the right of each child to have contact with both parents.<sup>57</sup> The choice of the most suitable preventive measures in an individual case should be the result of a careful balancing act.



#### 4.2.2 Amicable settlement and mediation

Bringing about an amicable settlement when parents separate or have to arrange the parental authority and residence of their children, is in itself a useful preventive measure.<sup>58</sup> When both parents have mutually worked out an arrangement they will be more inclined to respect its implementation.

In order to reach an amicable settlement, it may be useful to enlist a family mediator.<sup>59</sup> When a divorce has an international dimension it is advisable for the mediator to be familiar with international family mediation. As such training and/or accreditation is currently non-existent, it is best to seek a mediator with experience in this area.

<sup>57</sup> International Convention on the Rights of the Child, Article 10(2)

<sup>58</sup> Fulchiron Hugues, *Conflit familial, déplacement d'enfants et coopération judiciaire internationale en Europe*, 2002, page 437.

<sup>59</sup> For more information on mediation or to find an accredited mediator: [http://www.just.fgov.be/bemiddeling\\_mediation/nl/misc/criteria.html](http://www.just.fgov.be/bemiddeling_mediation/nl/misc/criteria.html).

If court proceedings are underway, the judge, in his role as judge-reconciler, can guide the parties in reaching an agreement. A settlement in a cross-border dispute can thus prevent an international child abduction.

### 4.2.3 Decision to relocate

In Belgium, it is normal for the parents and not the court to decide where their children will live. Generally a court order only specifies with whom a child will live, and not the specific place of residence.

When the parent with whom the child has its primary place of residence decides to move abroad, it is advisable to determine beforehand how the secondary right of residence (or right of access) will be adapted and ensured. Contrary, when a parent with the secondary right of residence decides to move abroad, it is best to agree beforehand how the parent who lives in Belgium can prevent his child from not being returned after a stay with this parent. Ideally, these arrangements are made in mutual agreement and subsequently ratified by a court.<sup>60</sup>

The court can add conditions to the decision of a parent to relocate. It is absolutely imperative to proceed cautiously here in order to deal with the fears of a parent and to attempt to find a balance which is adjusted to the individual case. A restrictive approach can have an adverse effect and prompt the very abduction it is trying to prevent. It must be ensured that the conditions are applicable and acceptable, both for the left behind parent as for the parent who decides to relocate.

Furthermore, safeguarding the right of access is essential to prevent an international child abduction. A statistical analysis of the applications under The Hague Child Abduction Convention shows that a substantial proportion of applications for a return actually constituted a request for the observance of a right of access.<sup>61</sup> Abductions can be prevented by helping parents work out a sound access arrangement for the parent and the child(ren) who move abroad. On the other hand, a parent, before allowing his child to visit the other parent abroad, may request protective measures to prevent the child not being returned after the visit. A number of these measures in use are listed below.<sup>62</sup>

---

<sup>60</sup> Hague Conference on Private International Law, Conclusions and Recommendations of the fifth meeting of the Special Commission to review the operation of the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction and the practical implementation of the Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children. The Hague, 2006, page 11.

<sup>61</sup> Lowe, N, *l.c.*, page 44.

<sup>62</sup> See chapter 4.3. Reactive preventive measures

It is necessary to strike a balance between measures which facilitate the right of access and measures which ensure a safe return. Here too the intervention of a specialised professional (family mediator, but also a judge-reconciler, for example) can help find this delicate balance and work towards an agreement which satisfies both parents.

#### 4.2.4 Recognition of a Belgian court order abroad

It is possible that a Belgian court order is not recognised by or is not enforceable in a foreign jurisdiction.

Furthermore, a parent may take his child(ren) abroad because he cannot reconcile himself with a Belgian court order and as such wants to evade this order.

Obtaining the recognition of a Belgian court order on parental authority and/or residence can in itself be a preventive measure.

The European Regulation “Brussels II bis” is an important instrument for imposing the recognition of such orders in other European member states (except Denmark). A certificate is issued together with the court order for this purpose.

If a decision on the right of access is of a cross-border nature, the court automatically issues the certificate when the order becomes enforceable. If nothing points to the right of access having a cross-border nature, the court is not required to issue the certificate. If the situation only acquires an international character later on, either party may at that time ask the court to issue a certificate.

But even when a court order falls outside the scope of the Regulation, it is advisable as a preventive measure to obtain recognition of the order as a preventive measure.

## 4.3 Reactive preventive measures

### 4.3.1 Introduction

If there is a real risk that a parent will take the children abroad, the other parent may ask the court to take measures in order to prevent this abduction. As indicated in chapter 3, these measures must always be in proportion to the genuine risk. It is important not to trigger an immediate legal response to an emotional expression.<sup>63</sup> An incorrect reactive preventive measure can have an adverse effect. If one parent has little information on the other, it may be useful to advise him to collect more information on the other parent. Concrete information regarding work, family, friends, home, etc. of the other parent can perhaps eliminate a great deal of the fear. If the fear turns out to be well-founded, the availability of this information can make the difference between him staying or leaving.



<sup>63</sup> Hoefnagels, G.P., *Gelukkig getrouwd, gelukkig gescheiden, bemiddeling en overeenkomst bij trouwen en scheiden*. Amsterdam-Veen, 2000.

### 4.3.2 Ban on leaving Belgian territory

When a parent fears the abduction of his children by the other parent, he can ask a court order which forbids the other parent to leave the Belgian territory with his child(ren) without the explicit consent of the petitioning parent.

Of course in such a case there must be sound reasons for fearing an abduction before a court will impose this ban.

Its application naturally presupposes that the other parent will respect the court order. But whatever the case, a clear ruling enables the judicial authorities to take immediate action when a departure occurs, even when for example the departure occurs while the abducting parent has access.

When a parent who fears an abduction this kind of order, it may be advisable to send a copy to the authority responsible for issuing travel documents for the child concerned. This will usually be the local authority of the area where the child is domiciled. It is also possible that the child has more than one nationality.<sup>64</sup> In this case it is advisable to also hand over a copy of the decision to the competent embassy or the competent consulate.<sup>65</sup> Remember that these services are not bound by a Belgian court order.

In the event of a real threat of abduction, it is important to inform the child's environment (kindergarden or childcare, school, family) of this risk and to send them a copy of the order which settles the parental authority and residence of the children.

### 4.3.3 Safeguarding identity documents

Another preventive measure consists of exchanging the children for their identity documents while the secondary right of residence (or right of access) is being exercised. If the children are with the father, their identity documents are held by the mother and vice versa. This can be mutually agreed between the two parents in a settlement, or it can also be requested by the court. It can also be agreed that the identity documents are kept by a neutral person.

<sup>64</sup> More information on this is available in chapter 4.3.4.1.

<sup>65</sup> Their contact details are available on [www.diplomatie.be](http://www.diplomatie.be).

This arrangement is particularly useful when a departure is feared to a destination outside the Schengen zone. Within the Schengen zone there is free movement of people and it is improbable that the identity documents will be checked.<sup>66</sup>

This is rather a simple arrangement that can reassure the parent who fears an abduction, without impeding the right of access of the other parent. Of course, this arrangement assumes that the parent who fears an abduction does not want to leave the country himself with the children (e.g. to go on holiday).

## 4.3.4 Travel documents

### 4.3.4.1 Types of travel documents for minors

From the age of 12, every Belgian child has its own identity card and requires the same travel documents as an adult.

When a child travels to a country for which an international passport is required<sup>67</sup>, it must – even if it is a newborn – have its own passport. A Belgian child cannot be registered on its parents' passports. However, this is possible for some foreign passports.

When an identity card is sufficient for the country of destination, children under the age of 12 must have a Kids-ID (a secure electronic travel document with photo). This Kids-ID can be requested from the local authority where the child is domiciled and is valid for three years. It is always possible to request a new Kids-ID before the old one has expired, for example if the photo no longer resembles the child. Every Kids-ID issued is registered. When a new one is requested, the old one must be handed in so that a child can never have two valid identity documents.

It can be a useful preventive measure to request an international passport or Kids-ID for your child and to keep it safe. After all, every child needs one to travel abroad. When a child has dual or multiple nationality, he can have two or more passports. In order to check the passport legislation of other countries it is advisable to contact the embassy concerned.<sup>68</sup>

When a parent fears an abduction to a country for which a passport is required, it is possible to register the child on the PASBANN list of the passports department of the FPS Foreign Affairs.<sup>69</sup>

<sup>66</sup> See chapter 4.3.4.3. Border controls.

<sup>67</sup> Consult [www.diplomatie.be](http://www.diplomatie.be) to find out whether a certain country requires an international passport.

<sup>68</sup> The contact details of foreign embassies in Belgium are available on [www.diplomatie.be](http://www.diplomatie.be).

<sup>69</sup> FPS Foreign Affairs, Second Directorate Movement of Persons, C22, Karmelietenstraat 15, 1000 Brussels, fax: +32 (0) 2 501 3015.

Its inclusion on this list ensures that when there has been applied for a passport for this child, the issuing authority will be notified and will, prior to issuing the passport, inform the parent who requested the measure and ask for his consent.

#### **4.3.4.2 Consent to travel**

There are no specific procedures or forms which establish a parental consent to travel with minors. If the child is travelling with one of the two parents, this parent is free to take a written agreement from the other parent with him, which has been authenticated by the local authority. However, this is not a requirement.

According to a Circular of January 31<sup>st</sup> 2007 of the FPS Internal Affairs, a local authority may assume that the parent who applies for an identity document for his child has parental authority, except for those cases where the local authority is aware of a court order which grants parental authority solely to the other parent. The fact that a child does not live with a parent may not constitute an impediment to the local authority issuing an identity document to this parent.

The Instructions<sup>70</sup> specify to the local authorities that it is advisable, under special circumstances (e.g. when the local authority knows of a disagreement within the couple, a de facto separation or when it is a permanent departure), to alert the other parent, who then has the option to object in writing to the issue of documents.

A parent who fears an abduction can notify the local authority and expressly request to be informed when the other parent applies for an identity document.

#### **4.3.4.3 Border controls**

Within the Schengen zone there is free movement of persons and in principle identity documents are not checked. The countries that currently constitute the Schengen zone are Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden and Switzerland. The entry of Romania and Bulgaria to the Schengen zone is planned for mid 2011. The most important European countries which are not part of the Schengen zone are Great Britain and Ireland.

<sup>70</sup> General Instructions on electronic identity documents for children under 12 years – Kids-ID – Version of 27 February 2009 (last update 15 May 2009).

At airports, identity checks and standard security controls are performed when checking in and boarding.

Sometimes it is necessary to act with extreme urgency. When a parent has already departed with his child(ren) but has not yet left Belgian territory, it may still be possible to ultimately prevent the abduction.

When the children leave from a Belgian airport, the airport police can be alerted by the public prosecution office so that the children can still be stopped at border control.

In this situation it is advisable to contact the Federal International Child Abduction Contact Point on +32 (0) 2 542 6700, which is available 24 hours a day, and Child Focus (116 000). Even when a parent uses other means to travel (train, car, bus), the competent judicial authority can attempt to interrupt their travel.

In the event of a genuine threat, it can be useful to advise a parent who fears an abduction to keep recent passport photos of his children.

#### **4.3.5 Guarantee**

It can occur that a parent wishes to travel abroad for a family visit, holiday, etc. The parent who fears an abduction may be inclined to object to this departure because he fears the children will not return to Belgium afterwards, even though he does not object to the visit itself.

In this case the solution may be to provide a guarantee to ensure the return. The parent who travels abroad freezes a certain amount in an account (or hands over an item as security, for example) which can be used by the left behind parent, in the event of non-return, to bring about the return of the children.

When a parent consents to a temporary stay abroad, it is advisable to record this in writing and specify an ultimate deadline for return.

### 4.3.6 Restriction of access rights

If the threat of an international child abduction is genuine, the court may have the right of access exercised in a neutral meeting place.

In reality this measure is generally applied when a parent has already – successfully or otherwise – attempted to abduct the children. If need be, the courts sometimes decide to temporarily suspend the access rights.





5

Participants

## 5.1 The Federal “International Child Abduction” Contact Point – Federal Public Service of Justice

On 27 January 2005 the Federal “International Child Abductions” Contact Point was opened.

This service is responsible for the following:

- Centralising and distributing all primary information relating to international child abductions and transfrontier access rights (including the preventive aspect), both in the framework of international instruments by which Belgium is bound, as in those cases to which no treaty applies.
- Handling individual cases under the application of international instruments, including coordination with the other authorities concerned.
- If the request does not fall under the jurisdiction of the FPS Justice, it refers the parties to other competent authorities, either the FPS Foreign Affairs, the Belgian courts or the foreign courts.
- Providing psychological assistance to families in individual cases.
- Providing financial assistance to families, for the cases which fall under the jurisdiction of the FPS Justice and depending on the financial means of the requesting parent. This financial assistance is ideally intended to entirely or partially cover the repatriation of the children or the transportation costs of a parent who accompanies his child upon his return to Belgium.

The Federal Contact Point is available every working day:

- By telephone on +32 (0) 2 542 6700
- By fax on +32 (0) 2 542 7006
- By e-mail: [kinderontvoering@just.fgov.be](mailto:kinderontvoering@just.fgov.be) ([rapt-parental@just.fgov.be](mailto:rapt-parental@just.fgov.be))

The aforementioned telephone number is also available outside office hours.

### 5.1.1 Central Authority

The Federal Public Service of Justice, Directorate-General of Legislation and Fundamental Rights and Freedoms, Central Authority for International Legal Assistance in Civil Matters, is the competent department for the application of international instruments (The Hague Child Abduction Convention, Brussels II bis, combined committees with Morocco and Tunisia and the Luxembourg Convention, which has increasingly fallen into disuse since the European Regulation). This department will act as the Central Authority towards the Central Authority of the other country concerned.

## 5.1.2 Federal Public Service of Foreign Affairs

The Federal Public Service of Foreign Affairs is responsible for handling international child abduction cases which do not fall under the application of international instruments, where Belgian nationals (or political refugees) are involved.

The contact details of the FPS Foreign Affairs, Legal Assistance Department of the Directorate-General of Consular Affairs (C12): Karmelietenstraat 15, 1000 Brussels, tel: +32 (0) 2 501 8111, fax: +32 (0) 2 513 5547.

This department will endeavour, through its network of embassies and consulates around the world, to support the left behind parent to re-establish contact with his child(ren). It is also possible to directly contact the consular representation in the country to which the child has been abducted, which in that case will work together with the competent department of the FPS Foreign Affairs.<sup>71</sup>

The competent Consulate-General may, by telephone or through a personal interview, assess the intentions and desires of the abducting parent as well as visit him. In addition the posted Foreign Affairs personnel can examine whether the children are well and may hand over a gift or letter from the left behind parent to restore or maintain contact where possible.

The FPS Foreign Affairs can also provide practical support to the left behind parent with legal and other steps in the other country:

- Advice on procedures to obtain a court order on the grounds of which the child can return to Belgium.  
Important: a court order only has legal force within the national borders (or since the European Regulation, to some extent within the borders of the EU). In order to give a Belgian court order legal force abroad, an exequatur procedure can be launched in the State to which the child has been abducted.
- Supply a list of available lawyers able to communicate with the left behind parent in a language he understands.
- Assure the presence of a representative of the embassy/consulate at the court proceedings (if the court is within a reasonable distance of the embassy).
- Taking action towards the local authorities (e.g. to locate the child, obtain certain documents, etc).
- Participation in the organisation of and payment for the repatriation of the child, or in some cases, a visit by the left behind parent to the child.

When neither party has Belgian nationality, the left behind parent may turn to the diplomatic representation in Belgium of the state of which he or his children are nationals. Their details can be found on [www.diplomatie.be](http://www.diplomatie.be). This diplomatic representation has the same role in such an event as the FPS Foreign Affairs. In practice, however, every

<sup>71</sup> The contact details of the competent embassy or the competent consulate can be found on [www.diplomatie.be](http://www.diplomatie.be).

foreign diplomatic representation has its own procedures and possibilities, and the extent to which the above services can/will be provided must always be examined.

## **5.2 Judicial authorities and police departments**

### **5.2.1 Judicial authorities**

The Public Prosecution Service conducts and guides the investigations with the police departments once a declaration has been made. If it deems necessary, the Public Prosecution Service can requisition an examining magistrate to grant a European or international arrest warrant or issue a rogatory commission. The Public Prosecution Service can also start criminal proceedings against the perpetrator of an abduction.

### **5.2.2 Police departments**

The police of the place of residence of the child is responsible for dealing with international child abductions, once a declaration has been made by the left behind parent and this under the supervision of the competent public prosecutor.

To this end, the definition of an international child abduction under criminal law must be satisfied.

More specifically the police will primarily intervene in the following cases:

- When the child has not been located.
- When the child is in serious danger with the abducting parent.
- When no other instruments can be applied to find a solution to the child abduction.
- When the parent expressly chooses a criminal law approach.

When a police department is the first to be informed by a parent that his child runs the risk of being abducted abroad by the other parent, he will be informed that the FPS's Justice and Foreign Affairs and Child Focus can help.

## 5.3 Child Focus

Child Focus is an independent public utility foundation which can provide assistance in the event of an international abduction by parents. The basis for this assistance is always the interests of the child, as well as the right of each child to maintain contact with both parents (art. 9, third paragraph, ICRC<sup>72</sup>).

If they fear an abduction (prevention) or in the event of an actual abduction, parents can call on Child Focus for primary help. If they so wish they can also obtain personal support. In such a case a specialised consultant will support them through the various procedures.

The consultant can also help re-establish communication with the other parent and/or child. In certain situations, parents on a low income can be offered financial or material assistance. Finally, for international cases Child Focus can also call on an extensive network of partners abroad.

Child Focus is accessible every day, 24 hours a day, on the emergency number 116 000 or via [116000@childfocus.org](mailto:116000@childfocus.org).

## 5.4 Parents associations

In previous years, a number of left behind parents have got together to form associations of fellow sufferers. Each association has its own emphasis but generally operates as a pressure group and sometimes as a self-help group. A number of these are listed below.

### 5.4.1 SOS Rapt Parentaux

French-speaking non-profit organization set up 15 years ago.

More information is available on their website [www.sosraptsparentaux.org](http://www.sosraptsparentaux.org)

Contact details:

Rue Arthur Blaivie 23

1950 Kraainem

Tel: +32 (0) 494 415 484 or +32 (0) 2 521 9727

Fax: +32 (0) 70 416 366

Email: [sosraptsparentaux@hotmail.com](mailto:sosraptsparentaux@hotmail.com)

<sup>72</sup> International Convention on the Rights of the Child, United Nations, 20 November 1989.

### **5.4.2 VZW BENJAMIN**

Dutch-speaking non-profit organization to help parents whose child has been abducted by the other parent.

In the first instance the organisation provides a listening ear and endeavours to support parents who have been left behind. The association provides both moral support and legal and practical advice. They do not provide any material assistance.

More information is available on their website: [www.vzwbenjamin.be](http://www.vzwbenjamin.be)

Their contact details:

Oude Dorpsweg 48

8490 Varsenare

Tel: +32 (0) 486 891 041

Or: +32 (0) 478 464 103

Email: [info@vzwbenjamin.be](mailto:info@vzwbenjamin.be)

### **5.4.3 Solidarité Rapt Parental ASBL**

French-speaking non-profit association set up on June 19th 2005 for parents whose children have been the victim of an international child abduction.

More information on their work is available on their website:

<http://users.belgacom.net/solidariteraptparental>

Their contact details:

177, rue de Tournai

7973 Granglise (Belœil)

Tel: +32 (0) 476 961 374

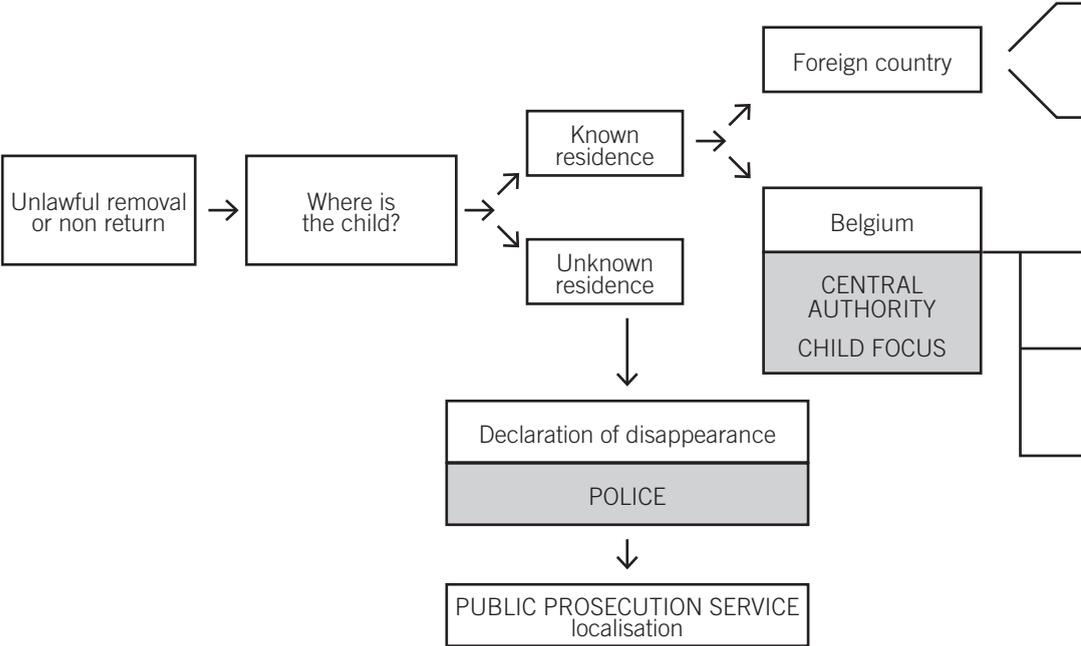
Email: [solidariraptparental@yahoo.fr](mailto:solidariraptparental@yahoo.fr)



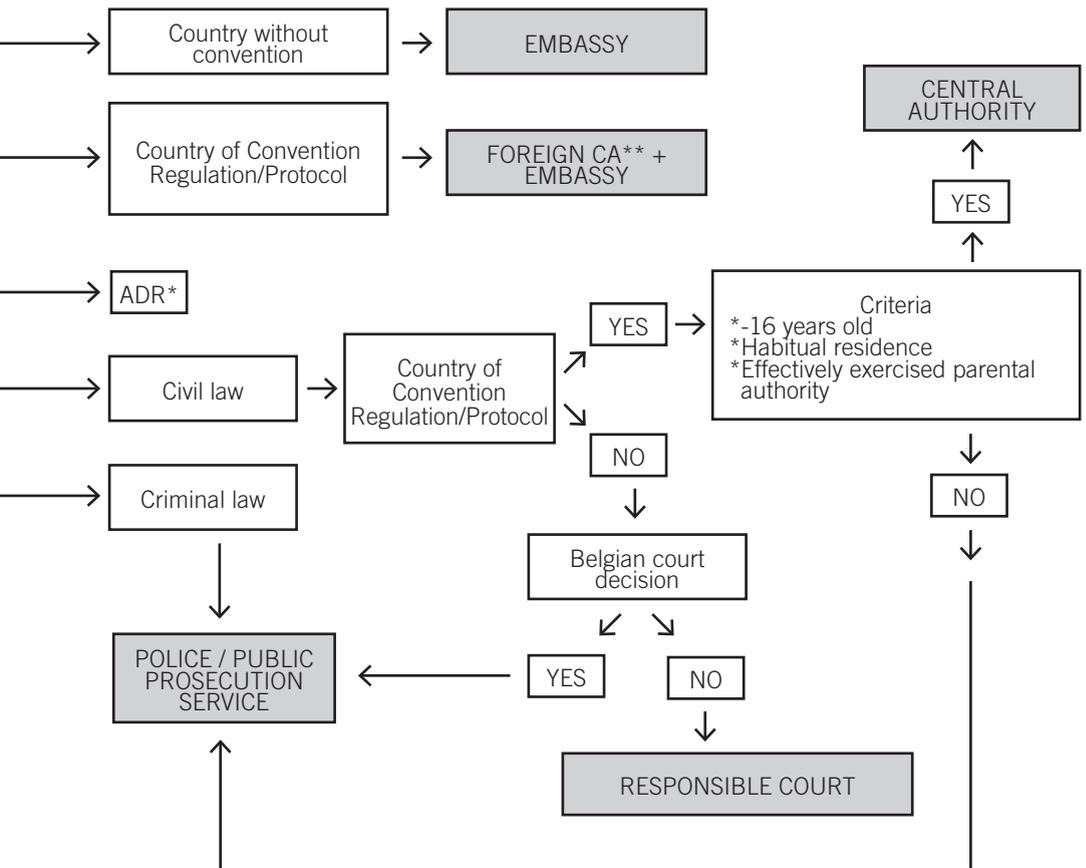
## 5.5 Flow charts

Below are a number of referral charts which visually present who you can refer to in the event of an international child abduction. These charts are based on the Belgian International Child Abduction Cooperation Protocol that was signed between the FPS's Justice and Foreign Affairs, the judicial authorities and Child Focus.

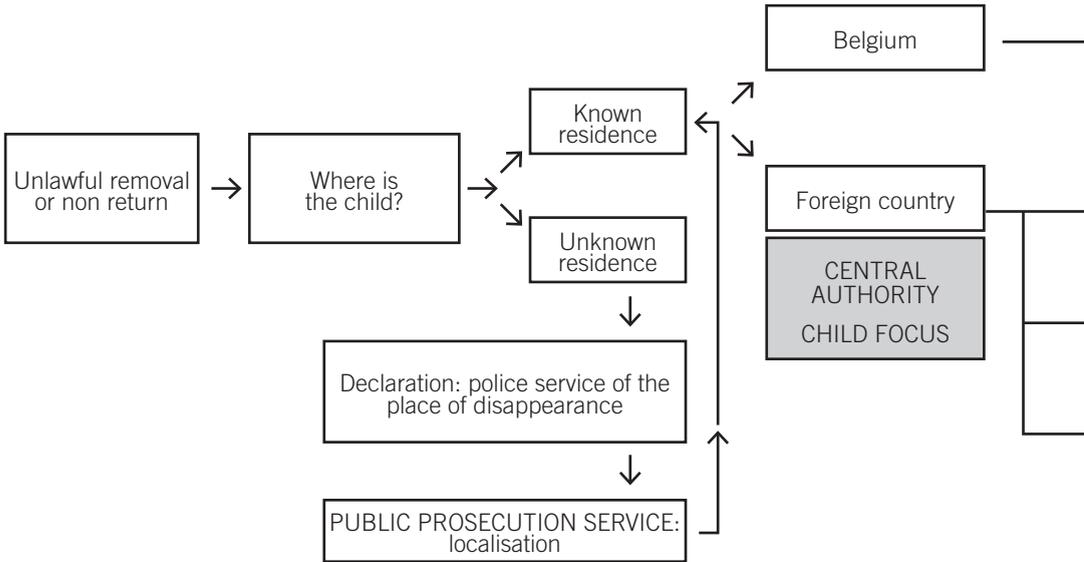
### FLOW CHART - CHILD ABDUCTED TO BELGIUM



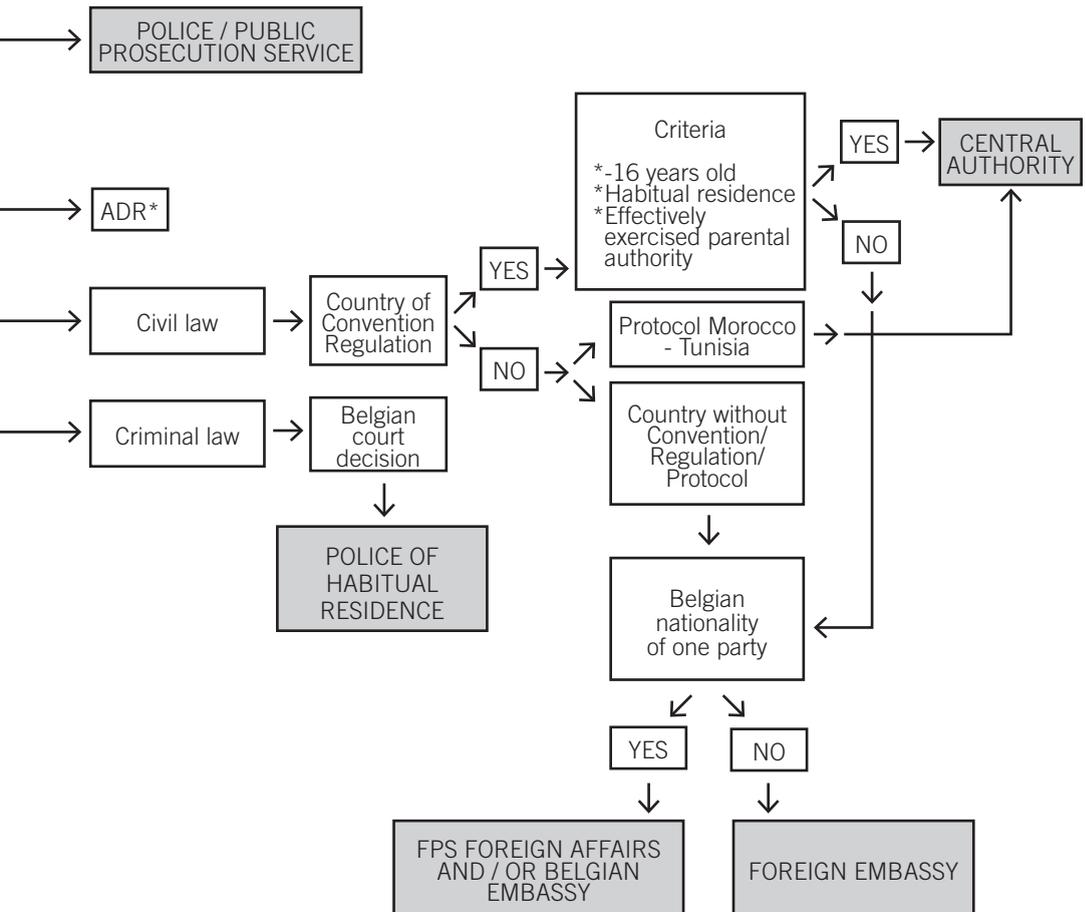
\*ADR = Alternative Dispute Resolution  
 \*\*CA = Central Authority



## FLOW CHART - CHILD ABDUCTED FROM BELGIUM



\*ADR = Alternative Dispute Resolution



# BIBLIOGRAPHY

Centrum Internationale Kinderontvoering. Praktische gids internationale kinderontvoering. Preventie. 41pg. Hilversum, January 2009.

Doek, J.E., Internationale kinderontvoering. The last battle of the marital war? Justitiële Verkenningen, 1985.

European Communities, Handbook for the application of the new “Brussel II bis” Regulation. 62pg, Belgium, October 2005.

de Hart, B., Internationale kinderontvoeringen. Oorzaken, preventie en oplossingen. Utrecht, 2002, 136p.

Fourth Special Commission to review the Operation of the Hague Convention of 25 October 1980, Conclusions and Recommendations, The Hague, 2001.

Freeman, R., Freeman, G., Gérer les difficultés de contact: une approche axé sur l'enfant. Journal du droit des jeunes, 2004, Vol. 237.

Fulchiron Hugues, Conflit familial, déplacement d'enfants et coopération judiciaire internationale en Europe, 2002.

Greif, G.L., Hegar, R.L., Parents who abduct. A qualitative study with implications for practice. Family relations. 1994.

Greif G.L., Hegar, R.L., When parents kidnap. The families behind the headlines, Michigan, 1993.

Greif, G., A parental report on the long-term consequences for children of abduction by the other parent, Child Psychiatry and Human Development, 2000, Vol.31 (1)

Ganancia, D., La médiation familiale internationale. La diplomatie du cœur dans les enlèvements d'enfants. Paris, 2007.

Hague Conference on Private International Law, Guide to good practice under the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction. Part III – Preventive measures. 53pg, Bristol, 2005.

Hague Conference on Private International Law, Conclusions and Recommendations of the fifth meeting of the Special Commission to review the operation of the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction and the practical implementation of the Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children. The Hague, 2001.

Hoefnagels, G.P., *Gelukkig getrouwd, gelukkig gescheiden, bemiddeling en overeenkomst bij trouwen en scheiden*. Amsterdam-Veen, 2000.

International Convention on the Rights of the Child, United Nations, 20 November 1989.

Janvier, R.F., Mc Cormick, K. Donaldson, R., *Parental kidnapping: A survey of left-behind parents*. *Juvenile and Family Court Journal*, 1990, Vol. 41.

Kruger, T., *Research report on International Child Abduction by parents to and from Belgium in 2007-2008*. Brussels, 2010.

Lowe, N., Armstrong, S., Mathias, A., *A Statistical Analysis of Applications made in 1999 under the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction*, The Hague, 2001.

Lowe, N., *A statistical Analysis of Applications made in 2003 under the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction (2007 update)*. The Hague, 2007.

Ministry of Justice, *International child abductions*, Brussels, 2000.

FPS Foreign Affairs, *General Instructions on electronic identity documents for children under 12 years – Kids-ID – Version of 27 February 2009 (last update 15 May 2009)*.

Sagatun I.J., Barrett, L. *Parental child abduction: the law, family dynamics and legal system responses*, *Journal of criminal justice*, 1990.





Hilde Demarré

# My child... our child!

Prevention guide international child abduction - Belgium

For children involved in an international abduction by one of the parents, there is a real risk of losing their right to contact with the other parent for an extended period of time and sometimes even forever. For the left behind parent, the child has disappeared.

Since the Eighties, a number of international legal remedies have been created that should provide a solution to these often traumatising experiences. These mechanisms are all useful and well-intended instruments of private international law that have certainly proven their effectiveness. Nevertheless, their application in an international context often takes a particularly long time and the procedures remain painful and difficult for the families involved. Furthermore, the enforcement of decisions, once a return has been ordered by a court, remains one of the thorniest issues.

The various players working in the field of international child abductions recognise the importance of preventing international child abductions. We are convinced that a sound prevention policy can reduce the number of international child abductions. However, the requirement here is that the people involved in the field are well informed of the available and most desirable prevention mechanisms in each individual situation.

The guide describes the issue of international child abductions in Belgium, the parties that can be called on to intervene, and the prevention mechanisms that can be deployed to prevent an abduction. In this way, the guide aims to assist professionals with their handling of individual cases.

ISBN 9789077118191  
D/2010/9519/03  
NUR740

June 2010



co-funded  
by the  
European Union